

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TRUDY BEAUBRUN, on behalf of herself and all
others similarly situated,

Plaintiff,

Case No.: CV 06-6598 (VVP)

CLASS ACTION

-against-

ERIC STREICH, P.C. and ERIC STREICH, ESQ.,

Defendants.

-----X

JOINT MOTION FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT

Plaintiff Trudy Beaubrun (the “Class Representative”), and Defendants, Eric Streich, P.C. and Eric Streich, Esq., respectfully request that the Court enter an order: (1) certifying the proposed Class for settlement purposes; (2) preliminarily approving the proposed Settlement Agreement; (3) directing notice to the Class; and (4) setting dates for opt-outs, objections, and a hearing under Federal Rule of Civil Procedure 23(c)(2).

In support of their motion, the Parties state:

1. Counsel for Plaintiff and Defendants have reviewed and analyzed the complex legal and factual issues presented in this action, and the risks and expense involved in pursuing the litigation to conclusion.

2. Based upon this review and analysis, Plaintiff and Defendants embarked upon and concluded comprehensive settlement discussions and executed the Class Action Settlement Agreement and Release (the “Settlement Agreement”), attached as Exhibit “A”.

3. Plaintiff and Defendants have also considered the factors required to certify a class action under Federal Rule of Civil Procedure 23 and agree that, for settlement purposes only, the following requirements are met:

- a. The settlement class is sufficiently numerous such that joinder is impracticable.
- b. There are questions of law and fact common to the settlement class that predominate over any questions affecting only individual members.
- c. The settlement class representative has claims typical to the settlement class members.
- d. The settlement class representative and her counsel are adequate representatives for the settlement class.
- e. Settlement of this action on a class basis is the superior and appropriate method for the fair and efficient resolution of this controversy.

4. Under the terms of the Class Action Settlement Agreement and subject to court approval:

- a. Defendants must pay each Class Member who timely returns a claim form and does not opt out a *pro rata* share of the \$7,954.00 fund.
- b. Defendants must pay \$1,000 to the Class Representative for her role in this litigation.
- c. Defendants must pay attorney fees and costs in the amount of \$15,000.00. This amount is to be paid in addition to, and not out of, the amounts paid to the Class Representative and the Class Members.

- d. Using Accu Data Corp. as settlement administrator, Defendants must cause to be mailed by first class mail: (1) the Class Notice and Claim Form, and (2) the settlement checks.
- e. Defendants must pay the costs of providing the Notice of Class Action and Claim Form to each of the 1,572 Class Members at their last known addresses using Accu Data Corp. of Hicksville, New York, as the Settlement Administrator. Defendants must pay the cost of distributing settlement checks to those Class Members who returned the Claim Form and do not opt out of the settlement using Accu Data Corp. of Hicksville, New York.
- f. To the extent that there are any funds from un-cashed, expired Settlement Checks, an amount equal to the amount of such un-cashed checks must be paid over as a *cy pres* award to Class Counsel to be distributed to the Neighborhood Economic Development Advocacy Project (NEDAP) in New York City.

5. Counsel for Plaintiff and the proposed class believe that the settlement of this action on the terms and conditions set forth in the Settlement Agreement is fair, reasonable, and adequate, and would be in the best interests of the members of the proposed class.

6. The Parties desire to settle and compromise the litigation on the terms and conditions embodied in the Class Settlement Agreement.

7. The Parties have agreed on the form of notice to be sent to the Class, attached as Exhibit "B", via first class mail. The Parties have agreed that no further notice to the Class is required.

8. The Parties have agreed on the proposed preliminary approval order and final approval order, attached as Exhibits "C" and "D", respectively.

9. Counsel for the parties have previously submitted a consent form whereby counsel have agreed to have Magistrate Viktor V. Pohorelsky oversee the prosecution of this action including the settlement of this action. Magistrate Pohorelsky approved the request on May 1, 2007, which was also so ordered by District Judge Charles Sifton on May 7, 2007.

WHEREFORE, the Parties respectfully request that the Court enter an order: (1) certifying the proposed Class for settlement purposes; (2) preliminarily approving the proposed Class Settlement Agreement; (3) directing notice to be sent to the Class via first class mail; and (4) setting dates for opt-outs, objections, and a hearing under Federal Rule of Civil Procedure 23(c)(2).

Dated: New York, New York

~~June~~ 31, 2007
August

Respectfully submitted,
BROMBERG LAW OFFICE, P.C.

By: /s/ Brian L. Bromberg
Brian L. Bromberg (BLB:6264)
One of Plaintiff's attorneys

RIVKIN RADLER LLP

By: /s/ Douglas Tischler
Douglas Tischler (DGT:5866)
Defendants' attorneys

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Certificate of Service

I, Brian L. Bromberg, hereby certify that on August 31, 2007, I served the attached ***Joint Motion for Preliminary Approval of Class Action Settlement*** by U.S. Mail, with proper postage prepaid, on the following people at the following addresses:

Douglas Tischler, Esq.
Rivkin Radler LLP
926 Reckson Plaza
Uniondale NY 11556-0111

Dated: New York, New York
August 31, 2007

/s/ Brian L. Bromberg
Brian L. Bromberg